

(ii) Management, organization and history;

(iii) Confidential business information concerns;

(iv) Types and location of records/documents;

(v) Data declaration updates/revisions;

(vi) Draft facility agreement, if applicable; and

(vii) Proposed inspection plan.

(d) *Visual plant inspection.* The Inspection Team may visually inspect the declared plant or facility and other areas of the plant site or facility as agreed by the Host Team Leader after consulting with the facility representative.

(e) *Records review.* The facility must have available for the Inspection Team to review, on the inspection site, access to all supporting materials and documentation used by the facility to prepare declarations and to comply with the CWC (see §§ 721.1 and 721.2 of this subchapter). Such access may be to paper copies or via electronic remote access by computer during the inspection period or as otherwise agreed upon by the Inspection Team and Host Team Leader.

(f) *Effect of facility agreements.* Routine inspections at facilities for which the United States has concluded a facility agreement with the OPCW will be conducted in accordance with the facility agreement. The existence of a facility agreement does not in any way limit the right of the owner, operator, occupant, or agent in charge of the facility to withhold consent to an inspection request.

(g) *Hours of inspections.* Consistent with the provisions of the Convention, the Host Team will ensure, to the extent possible, that each inspection is commenced, conducted, and concluded during ordinary working hours, but no inspection shall be prohibited or otherwise disrupted from commencing, continuing or concluding during other hours.

(h) *Health and safety regulations and requirements.* In carrying out their activities, the Inspection Team and Host Team shall observe federal, state, and local health and safety regulations and health and safety requirements established at the inspection site, including

those for the protection of controlled environments within a facility and for personal safety. Such health and safety regulations and requirements will be set forth in, but will not necessarily be limited to, the facility agreement, if applicable.

(i) *Preliminary factual findings.* Upon completion of an inspection, the Inspection Team will meet with the Host Team and facility personnel to review the written preliminary findings of the Inspection Team and to clarify ambiguities. The Host Team will discuss the preliminary findings with the facility, and the Host Team Leader will take into consideration the facility's input when providing official comment on the preliminary findings to the Inspection Team. This meeting will be completed not later than 24 hours after the completion of the inspection.

§ 716.5 Notification, duration and frequency of inspections.

(a) *Notification.* (1)(i) *Content of notice.* Inspections of facilities may be made only upon issuance of written notice by the United States National Authority (USNA) to the owner and to the operator, occupant or agent in charge of the premises to be inspected. The Department of Commerce will also provide a separate Host Team notification to the inspection point of contact identified in declarations submitted by the facility. If the United States is unable to provide actual written notice to the owner, operator, or agent in charge, the Department of Commerce, or if the Department of Commerce is unable, the Federal Bureau of Investigation, may post notice prominently at the facility to be inspected. The notice shall include all appropriate information provided by the OPCW to the USNA concerning:

(A) The type of inspection;

(B) The basis for the selection of the facility or location for the type of inspection sought;

(C) The time and date that the inspection will begin and the period covered by the inspection; and

(D) The names and titles of the inspectors.

(ii) In addition to appropriate information provided by the OPCW in its

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notification to the USNA, the Department of Commerce's Host Team notification will request that the facility indicate whether it will consent to an inspection, and will state whether an advance team is available to assist the site in preparation for the inspection. If an advance team is available, facilities that request advance team assistance are not required to reimburse the

U.S. Government for costs associated with these activities. If a facility does not agree to provide consent to an inspection within four hours of receipt of the Host Team notification, BIS intends to seek an administrative warrant.

(iii) The following table sets forth the notification procedures for inspection:

TABLE TO § 716.5(a)(1)

Activity	Agency action	Facility action
(A) OPCW notification of inspection.	(1) U.S. National Authority transmits actual written notice and inspection authorization to the owner and operator, occupant, or agent in charge via facsimile within 6 hours. (2) Upon notification from the U.S. National Authority, BIS immediately transmits Host Team notification via facsimile to the inspection point of contact to ascertain whether the facility (1) grants consent and (2) requests assistance in preparing for the inspection. In absence of consent within four hours of transmission, BIS intends to seek an administrative warrant.	(i) Acknowledge receipt of fax. (i) Indicates whether it grants consent. (ii) May request advance team support. No requirement for reimbursement of U.S. Government's services.
(B) Preparation for inspection ..	(1) BIS advance team arrives in the vicinity of the facility to be inspected 1–2 days after OPCW notification for logistical and administrative preparations.	(i) If advance team support is provided, facility works with the advance team on inspection-related issues.

(2) *Timing of notice.* (i) *Schedule 1 facilities.* For declared Schedule 1 facilities, the Technical Secretariat will notify the USNA of an initial inspection not less than 72 hours prior to arrival of the inspection team in the United States, and will notify the USNA of a routine inspection not less than 24 hours prior to arrival of the Inspection Team in the United States. The USNA will provide written notice to the owner and to the operator, occupant or agent in charge of the premises within six hours of receiving notification from the OPCW Technical Secretariat or as soon as possible thereafter. The Department of Commerce will provide Host Team notice to the inspection point of contact of the facility as soon as possible after the OPCW notifies the USNA of the inspection.

(ii) *Schedule 2 plant sites.* For declared Schedule 2 plant sites, the Technical Secretariat will notify the USNA of an initial or routine inspection not less than 48 hours prior to arrival of the Inspection Team at the plant site to be inspected. The USNA will provide written notice to the owner and to the operator, occupant or agent in charge of the premises within six hours of receiving notification from the OPCW Tech-

nical Secretariat or as soon as possible thereafter. The Department of Commerce will provide Host Team notice to the inspection point of contact at the plant site as soon as possible after the OPCW notifies the USNA of the inspection.

(iii) *Schedule 3 and unscheduled discrete organic chemical plant sites.* For declared Schedule 3 and unscheduled discrete organic chemical plant sites, the Technical Secretariat will notify the USNA of an initial or routine inspection not less than 120 hours prior to arrival of the Inspection Team at the plant site to be inspected. The USNA will provide written notice to the owner and to the operator, occupant or agent in charge of the premises within six hours of receiving notification from the OPCW Technical Secretariat or as soon as possible thereafter. The Department of Commerce will provide Host Team notice to the inspection point of contact of the plant site as soon as possible after the OPCW notifies the USNA of the inspection.

(b) *Period of inspections*—(1) *Schedule 1 facilities.* For a declared Schedule 1 facility, the Convention does not specify

a maximum duration for an initial inspection. The estimated period of routine inspections will be as stated in the facility agreement, unless extended by agreement between the Inspection Team and the Host Team Leader. The Host Team Leader will consult with the inspected facility on any request for extension of an inspection prior to making an agreement with the Inspection Team. Activities involving the pre-inspection briefing and preliminary findings are in addition to inspection activities. See § 716.4 (c) and (i) for a description of these activities.

(2) *Schedule 2 plant sites.* For declared Schedule 2 plant sites, the maximum duration of initial and routine inspections shall be 96 hours, unless extended by agreement between the Inspection Team and the Host Team Leader. The Host Team Leader will consult with the inspected plant site on any request for extension of an inspection prior to making an agreement with the Inspection Team. Activities involving the pre-inspection briefing and preliminary findings are in addition to inspection activities. See § 716.4 (c) and (i) for a description of these activities.

(3) *Schedule 3 and discrete organic chemical plant sites.* For declared Schedule 3 or unscheduled discrete organic chemical plant sites, the maximum duration of initial and routine inspections shall be 24 hours, unless extended by agreement between the Inspection Team and the Host Team Leader. The Host Team Leader will consult with the inspected plant site on any request for extension of an inspection prior to making an agreement with the Inspection Team. Activities involving the pre-inspection briefing and preliminary findings are in addition to inspection activities. See § 716.4 (c) and (i) for a description of these activities.

(c) *Frequency of inspections.* The frequency of inspections is as follows:

(1) *Schedule 1 facilities.* As provided by the Convention, the frequency of inspections at declared Schedule 1 facilities is determined by the OPCW based on the risk to the object and purpose of the Convention posed by the quantities of chemicals produced, the characteristics of the facility and the nature of the activities carried out at the facil-

ity. The frequency of inspections will be stated in the facility agreement.

(2) *Schedule 2 plant sites.* As provided by the Convention and the Act, the maximum number of inspections at declared Schedule 2 plant sites is 2 per calendar year per plant site. The OPCW will determine the frequency of routine inspections for each declared Schedule 2 plant site based on the inspectors' assessment of the risk to the object and purpose of the Convention posed by the relevant chemicals, the characteristics of the plant site, and the nature of the activities carried out there. The frequency of inspections will be stated in the facility agreement, if applicable.

(3) *Schedule 3 plant sites.* As provided by the Convention, no declared Schedule 3 plant site may receive more than two inspections per calendar year and the combined number of inspections of Schedule 3 and unscheduled discrete organic chemical plant sites in the United States may not exceed 20 per calendar year.

(4) *Unscheduled Discrete Organic Chemical plant sites.* As provided by the Convention, no declared UDOC plant site may receive more than two inspections per calendar year and the combined number of inspections of Schedule 3 and unscheduled discrete organic chemical plant sites in the United States may not exceed 20 per calendar year.

§ 716.6 Facility agreements.

(a) *Description and requirements.* A facility agreement is a site-specific agreement between the U.S. Government and the OPCW. Its purpose is to define procedures for inspections of a specific declared facility that is subject to inspection because of the type or amount of chemicals it produces, processes or consumes.

(1) *Schedule 1 facilities.* The Convention requires that facility agreements be concluded between the United States and the OPCW for all declared Schedule 1 facilities.

(2) *Schedule 2 plant sites.* The USNA will ensure that such facility agreements are concluded with the OPCW unless the owner, operator, occupant or agent in charge of the plant site and the OPCW Technical Secretariat agree